

DEC 12 2017

*Sherrill B. Carter, Executive Officer/Clerk*  
TINA HESS, Deputy Chief, Safe Neighborhoods & Gang Division, SBN 143900  
JONATHAN CRISTALL, Supervising Assistant City Attorney, SBN 191935

*By Shaunya Bolden, Deputy*

MICHAEL N. FEUER, City Attorney, SBN 111529  
MARY CLARE MOLIDOR, Chief, Criminal & Special Lit., Branch, SBN 824  
TINA HESS, Deputy Chief, Safe Neighborhoods & Gang Division, SBN 143900  
JONATHAN CRISTALL, Supervising Assistant City Attorney, SBN 191935  
ADAM BIERNAN, Deputy City Attorney, SBN 287575  
200 North Main Street, Room 966  
Los Angeles, California 90012  
Telephone: (213) 978-4090  
Fax: (213) 978-8717  
E-Mail: adam.biernan@lacity.org

Attorneys for Plaintiff

**NO FEE – GOV'T CODE § 6103**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

MIGUEL A. VALENCIA, aka MIGUEL ANGEL VALENCIA, aka BOXER, an individual; SENORINA LARA, aka SENORINA GUTIERREZ LARA, an individual; and DOES 1 through 50, inclusive,

Defendants.

Case No.: **BC 686561**

**COMPLAINT FOR ABATEMENT AND INJUNCTION**

[CIVIL CODE SECTION 3479, ET SEQ.; LOS ANGELES MUNICIPAL CODE SECTION 41.57]

[Unlimited Action]

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

**I. INTRODUCTION**

1. This action ("Action") is brought and prosecuted by Plaintiff, the People of the State of California ("Plaintiff" or "People"), for the purpose of abating and enjoining a dangerous gang-related public nuisance existing at a duplex located at 1331 East 43rd Street, Los Angeles, CA 90011 (the "Property"). This Property is a hub for gang-related violence, illegal parties, and other dangerous nuisance activity perpetrated by members and associates

1 of the notorious 38<sup>th</sup> Street criminal street gang (“38<sup>th</sup> Street”) and the closely allied Vernon  
2 Hood Locos criminal street gang (“Vernon Hood Locos”). The Property is located in close  
3 proximity to several sensitive sites in the community, including three public schools – one of  
4 which is less than 800 feet away, two public parks, and several churches.

5 2. Since at least 2008, the Property has been the site of rampant criminal activity,  
6 including, but not limited to, shootings, violent altercations, gang members illegally in  
7 possession of firearms, possession of narcotics, and gang loitering. Violence has intensified  
8 as of late:

9 • In November 2017, in broad daylight, a 38th Street gang member standing  
10 on or directly in front of the Property stopped a passerby and exclaimed, “This is 38th  
11 Street hood!” The gang member then pulled out a hand gun and shot at the passerby  
12 before retreating into the Property.

13 • In September 2017, Los Angeles Police Department (“LAPD”) officers  
14 received a radio call indicating that a gunman standing on or near the Property was  
15 brandishing a handgun and pointing it at passing vehicles, before retreating into the  
16 Property.

17 • In August 2017, the Property was hit by a barrage of gunfire in the middle  
18 of the night. A neighboring house was hit in the crossfire, shattering its front window.  
19 LAPD officers recovered ten spent casings from the sidewalk in front of the Property.

20 3. The Property is currently owned by Defendant Senorina Lara, who took  
21 ownership from her son, Defendant Miguel A. Valencia, in April 2017. Defendant Valencia  
22 owned the Property from 2002 until April 2017, and currently resides at and exercises at least  
23 some control over the Property. Defendant Valencia is a member of both 38th Street and  
24 Vernon Hood Locos. His brothers, Marco and Victor Valencia, are members of the Vernon  
25 Hood Locos and reside at the Property with the Defendants. Other 38th Street gang members  
26 and associates have also resided in various rooms and units at the Property in recent years  
27 and may currently reside there.

28 4. The Property is a stronghold where gang members assert their dominance over

1 the neighborhood through blatant violence and intimidation. The Property has become so  
2 indelibly connected to both 38th Street and Vernon Hood Locos that rivals gangs know to  
3 attack the Property when they want to attack either gang, putting the safety of the  
4 neighborhood at the whim of the gangs' "beefs." The Property also serves as a safe haven  
5 that gang members use to evade and hide from law enforcement.

6 5. The Property has been the site of several gang-related late-night parties in 2016  
7 and 2017. Patrons attending these parties consume illegal narcotics and dance to loud,  
8 raucous, and illegally amplified music. Partygoers double park their vehicles and otherwise  
9 disrupt neighbors as they arrive and leave the parties.

10 6. The Property is known in the surrounding community and amongst LAPD officers  
11 as a dangerous and troublesome gang and party location. Members of the community are  
12 regularly subjected to violence, intimidation, disturbance, and fear as a result of the gangs'  
13 activities at the Property.

14 7. LAPD officers have made countless attempts to persuade Defendant Valencia to  
15 curb the nuisance activity. The Los Angeles City Attorney's Office ("LACA") sent two written  
16 notices of nuisance activity to Defendant Valencia in June and July 2017. LACA also  
17 conducted a meeting with Defendant Valencia at the Property in September 2017, whereby  
18 Defendant Valencia acknowledged the nuisance activity at the Property and indicated his  
19 intent to abate the nuisance. As evidenced by the recent violence at the Property, Defendant  
20 Valencia is unwilling to stop the dangerous and illegal activity there. Defendant Lara similarly  
21 has been unwilling, or possibly unable, to take the steps necessary to curb the nuisance,  
22 despite her long-time residence at, and ownership of, the Property.

23 8. This nuisance abatement prosecution is intended to compel action by the  
24 Defendants to bring the unacceptable state of affairs at the Property to a swift and permanent  
25 halt before another violent incident further threatens the health and safety of the community.

26 ///

27 ///

28 ///

1                   **II. THE PARTIES AND THE PROPERTY**

2                   **A. Plaintiff**

3                   9. Plaintiff, the People, is the sovereign power of the State of California, and is  
4 authorized to bring the first cause of action pursuant to California Code of Civil Procedure  
5 section 731 which authorizes abatement and injunction of and for public nuisances pursuant to  
6 the Public Nuisance Law ("PNL"), California Code sections 3479-3480; and the second cause  
7 of action pursuant to Los Angeles Municipal Code ("LAMC") section 11.00(I), which provides  
8 that any violation of any provision of the LAMC, such as LAMC section 41.57 (prohibition on  
9 loud and raucous noise), is a public nuisance that may be abated by LACA on behalf of the  
10 People of the State of California.

11                  **B. Defendants**

12                  10. Defendant Miguel A. Valencia owned and exercised control over the Property  
13 from 2002 until April 2017, when he conveyed title to Defendant Senorina Lara as a gift.  
14 Defendant Valencia continues to reside at and exercise at least some control over the  
15 Property.

16                  11. Defendant Senorina Lara owns the Property and currently resides at the Property  
17 with her sons, Defendant Valencia, Marco Valencia, and Victor Valencia. Plaintiff has no  
18 means for abating the dangerous nuisance conditions at the Property other than naming  
19 Defendant Lara in this Action due to her ownership of the Property.

20                  12. The true names and capacities of defendants sued herein as DOES 1 through  
21 50, inclusive, are unknown to the Plaintiff, who therefore sues said defendants by such  
22 fictitious names. When the true names and capacities of said defendants have been  
23 ascertained, the Plaintiff will ask leave of the Court to amend this complaint and to insert in lieu  
24 of such fictitious names the true names and capacities of said fictitiously named defendants.

25                  **C. The Property**

26                  13. The Property is a duplex legally described as: "Lot 28 in Block 'C' of Bowen's  
27 Vernon and Hooper Avenue Tract, in the City of LOS ANGELES, County of Los Angeles, State  
28 of California, as per map recorded in Book 9, Page 198 of Maps, in the Office of the County

1 Recorder of said County." The Los Angeles County Assessor's Parcel Number for the  
2 Property is 5116-004-030.

3       14. The Property includes two structures on a single lot – a front house and a back  
4 house. Plaintiff is informed and believes, and upon such information and belief alleges, that  
5 the Property has been illegally divided and constructed upon to create at least four separate  
6 residential units at the Property – two in the front house and two in the back house. The  
7 Property's physical appearance is otherwise unkempt and sends a distinct message that no  
8 one, with the possible exception of the gang, is in charge.

9       15. The Property is located in close proximity to several sensitive sites in the  
10 community, including, but not limited to: Ascot Elementary School (approx. 794 feet away),  
11 Jefferson High School (approx. 1124 feet away), Ross Snyder Recreation Center (approx.  
12 1157 feet away), Roberti Early Education Center (approx. 1457 feet away), Central Avenue  
13 Jazz Park (approx. 1483 feet away), and several churches within 2000 feet of the Property.

### 14                   III. THE PUBLIC NUISANCE LAW

15       16. The PNL, Civil Code section 3479, defines a public nuisance as "[a]nything which  
16 is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is  
17 indecent or offensive to the senses, or an obstruction to the free use of property, so as to  
18 interfere with the comfortable enjoyment of life or property...." (See *City of Bakersfield v. Miller*  
19 (1966) 64 Cal.2d 93, 99 ["The Legislature has defined in general terms the word 'nuisance' in  
20 Civil Code section 3479. . . ."].)

21       17. Civil Code section 3480 defines a public nuisance as "one which affects at the  
22 same time an entire community or neighborhood, or any considerable number of persons,  
23 although the extent of the annoyance or damage inflicted upon individuals may be unequal."

24       18. The case law is "replete with examples" of the "threat violent street gangs ...  
25 pose to the safety of peaceful Californians." (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205,  
26 1216.) In a case involving gang-related gunfire similar to what is occurring at the Property  
27 here, the California Supreme Court explicitly recognized that "[s]treet gang activity can often  
28 subject" innocent bystanders "to unacceptable levels of risk." (*Id.*) In *Medina v. Hillshore*

1      *Partners* (1995) 40 Cal.App.4th 477, 486, involving a wrongful death claim by the mother of a  
2 young man shot by gang members at an apartment complex, the Court said, "We agree that  
3 the congregation of gangs poses a foreseeable risk of harm to the public." In particular, the  
4 whole spectrum of typical street gang conduct, ranging from loitering, to public drinking and  
5 boisterousness, to drug dealing, to gunfire, has been held to "easily meet the statutory  
6 standard" for a public nuisance under Civil Code section 3479. (*People ex rel. Gallo v. Acuna*  
7 (1997) 14 Cal.4th 1090, 1120.)

8            19. Civil Code section 3491 provides the methods by which public nuisances such as  
9 those alleged herein may be abated. Civil Code section 3491 states that the "remedies  
10 against a public nuisance are indictment or information, a civil action or abatement."  
11 Abatement is "accomplished by a court of equity by means of an injunction proper and suitable  
12 to the facts of each case." (*Sullivan v. Royer* (1887) 72 Cal. 248, 249.)

13            20. Code of Civil Procedure section 731 authorizes a city attorney to bring an  
14 action to enjoin or abate a public nuisance. It provides, in relevant part, "[a] civil action may be  
15 brought in the name of the people of the State of California to abate a public nuisance . . . by  
16 the city attorney of any town or city in which such nuisance exists."

17            21. "[S]trict liability for nuisance historically attends the possession and control of  
18 land." (*Leslie Salt Co. v. San Francisco Bay Conservation and Development Commission*  
19 (1984) 153 Cal.App.3d 605, 618 n. 15 & 619). "It is immaterial whether the acts" of the  
20 persons sought to be held liable for a nuisance "be considered willful or negligent; the essential  
21 fact is that, whatever be the cause, the result is a nuisance." (*Snow v. Marian Realty*  
22 *Company* (1931) 212 Cal. 622, 625-26; see also *Sturges v. Charles L. Harney, Inc.* (1958) 165  
23 Cal.App.2d 306, 318 ["a nuisance and liability therefore may exist without negligence"]; *People*  
24 *v. McCadden* (1920) 48 Cal.App. 790, 792 ["A judgment supported on findings that such  
25 nuisance was conducted and maintained on the premises in question, regardless of the  
26 knowledge of the owner thereof, is sufficient. Such knowledge on the part of the owner . . . is  
27 unnecessary."].) This strict standard is because "the object of the act is not to punish; its  
28 purpose is to effect a reformation of the property itself." (*People v. Bayside Land Co.* (1920)

1 48 Cal.App. 257, 261.) The fact that a defendant's conduct consists of omission rather than  
2 affirmative action "does not preclude nuisance liability." (*Birke v. Oakwood Worldwide* (2009)  
3 169 Cal.App.4th 1540, 1552.) Any party that owns or otherwise controls property has an  
4 "indisputable duty to take reasonable steps to maintain its premises in a reasonably safe  
5 condition." (*Id.*)

6 **IV. LAMC PROHIBITION ON LOUD AND RAUCOUS NOISE**

7 22. LAMC Code section 41.57 prohibits certain instances of loud and raucous noise.  
8 Specifically, it states that "it is unlawful for any person to cause, allow or permit the emission or  
9 transmission of any loud or raucous noise from any sound making or sound amplifying device  
10 in his possession or under his control. (1) upon any private property, or (2) upon any public  
11 street alley, sidewalk or thoroughfare, or (3) in or upon any public park or other public place or  
12 property."

13 23. LAMC section 11.00(l) explicitly designates violations of the LAMC as public  
14 nuisances. This same section authorizes LACA to bring an abatement action on behalf of the  
15 People of the State of California.

16 24. A violation of LAMC section 41.57 constitutes a per se public nuisance under  
17 LAMC section 11.00(l). "[T]he legislature has the power to declare certain uses of property a  
18 nuisance and such use thereupon becomes a nuisance per se." (*McClatchy v. Laguna Lands  
19 Limited* (1917) 32 Cal.App. 718, 725.) "[W]here the law expressly declares something to be a  
20 nuisance, then no inquiry beyond its existence need be made," the Court engages in no  
21 balancing of factors, "and in this sense its mere existence is said to be a nuisance per se."  
22 (*Jones v. Union Pacific Railroad* (2000) 79 Cal.App.4th 1053, 1068.) This rule is applicable to  
23 local legislatures, and, "by ordinance the city legislative body may declare what constitutes a  
24 nuisance..." (*City of Costa Mesa v. Soffer* (1992) 11 Cal. App. 4th 378, 383 [citing  
25 Government Code section 38771]; See also *People ex rel. Feuer v. Superior Court*  
26 (*Cahuenga's the Spot*) (2015) 234 Cal. App. 4th 1360, 1385.) When local law makes such a  
27 declaration, as the LAMC does in section 11.00(l) ("any violation of any provision of this Code  
28 is declared to be a public nuisance..."), those violations are public nuisances *per se*.

1                   **V. FIRST CAUSE OF ACTION FOR PUBLIC NUISANCE**

2                   **[Civil Code section 3479, et seq. --**

3                   **Against All Defendants and DOES 1 through 50]**

4       25. Plaintiff incorporates by reference Paragraphs 1 through 24 of this Complaint and  
5 makes them part of this First Cause of Action as though fully set forth herein.

6       26. From an exact date unknown but at least since 2008, through the present time,  
7 Defendants, and DOES 1 through 50, have alternately owned, operated, managed, and used,  
8 and/or directly or indirectly permitted to be occupied and used, the Property in such a manner  
9 as to constitute a public nuisance in accordance with Civil Code sections 3479 and 3480. The  
10 public nuisance, as described herein, is injurious to health, indecent or offensive to the senses,  
11 and/or an obstruction to the free use of property, so as to substantially and unreasonably  
12 interfere with the comfortable enjoyment of life or property by those persons living in the  
13 surrounding community. The public nuisance at the Property consists of, but is not limited to,  
14 the occurrence of gunfire on and around the Property, violent intimidation of community  
15 members, physical altercations, gang members illegally in possession of firearms, possession  
16 of narcotics, gang loitering, and illegal late-night parties.

17     27. Defendants, and DOES 1 through 50, in owning, conducting, maintaining, and/or  
18 permitting the use of the Property, directly or indirectly, as a public nuisance, have engaged in  
19 wrongful conduct and caused a serious threat to the general health, safety, and welfare of the  
20 law-abiding tenants at the Property and persons in the area surrounding the Property. Further,  
21 Defendant Valencia has actively participated in much of the wrongful conduct that comprises  
22 the nuisance activity described herein.

23     28. Unless Defendants, and DOES 1 through 50, are restrained and enjoined by  
24 order of this Court, they will continue to use, occupy, and maintain, and to aid, abet, or permit,  
25 directly or indirectly, the use, occupation, and maintenance of the Property, together with the  
26 fixtures and appurtenances located therein, for the purpose complained of herein, to the great  
27 and irreparable damage of Plaintiff and in violation of California law.

28                   **VI. SECOND CAUSE OF ACTION FOR PROHIBITED NOISE**

1 [LAMC section 41.57 --

2           **Against All Defendants and DOES 1 through 50]**

3       29. Plaintiff incorporates by reference Paragraphs 1 through 28 of this Complaint and  
4 makes them part of this Second Cause of Action as though fully set forth herein.

5       30. On several occasions in 2016 and 2017, Defendants, and DOES 1 through 50,  
6 have caused, allowed, or permitted the emission or transmission of loud and raucous noise  
7 from a sound amplifying device or devices under their control. Specifically, Defendant  
8 Valencia, and DOES 1 through 50 have hosted "after-hours" parties at the Property, which they  
9 have advertised on social media as events to consume narcotics and listen to DJ-curated  
10 amplified music, while Defendant Lara has permitted such activity. These parties occurred  
11 during both respective Defendants' periods of ownership. The noise from these parties at the  
12 Property has been loud and raucous and has unreasonably annoyed, disturbed, impaired, or  
13 endangered the comfort, repose, health, or safety of neighbors of the Property in violation of  
14 LAMC section 41.57 and constituting a per se public nuisance under LAMC 11.10(l).

15       31. Unless Defendants, and DOES 1 through 50, are restrained and enjoined by  
16 order of this Court, they will continue to cause, allow, or permit this loud and raucous noise at  
17 the Property, which constitutes a per se public nuisance and unreasonably annoys, disturbs,  
18 impairs, and endangers the comfort, repose, health, and safety of the residents of neighboring  
19 homes in the community.

20           **PRAYER**

21           **WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND**  
22 **DECREE AS FOLLOWS:**

23           **AS TO THE FIRST CAUSE OF ACTION**

24           **AS TO DEFENDANTS and DOES 1 through 50:**

25       1. That the Property, together with the fixtures and moveable property therein and  
26 thereon, be declared a public nuisance and be permanently abated as such in accordance with  
27 Civil Code section 3491.

28       2. That each Defendant, and any agents, officers, employees, and anyone acting

1 on their behalf, and their heirs and assignees, be preliminarily and perpetually enjoined from  
2 operating, conducting, using, occupying, or in any way permitting the use of the Property as a  
3 public nuisance. Such orders should include, but not be limited to, closure of the Property for a  
4 one-year term, a permanent injunction mandating physical and managerial improvements if  
5 and when the Property is re-occupied, stay away orders against certain individuals, and such  
6 other orders as are appropriate to remedy the nuisance on the Property and enhance the  
7 abatement process.

8       3.     Such costs as may occur in abating said nuisance at the Property and such other  
9 costs as the Court shall deem just and proper.

10      4.     That Plaintiff be granted such other and further relief as the Court deems just and  
11 proper, including demolition of the Property.

12           AS TO THE SECOND CAUSE OF ACTION

13           AS TO DEFENDANTS and DOES 1 through 50:

14      1.     That each Defendant, and any agents, officers, employees, and anyone acting  
15 on their behalf, and their heirs and assignees, be declared in violation of LAMC section 41.57  
16 and LAMC section 11.00(l) and be preliminarily and permanently enjoined from operating,  
17 conducting, using, occupying, or in any way permitting the emission or transmission of any  
18 loud or raucous noise from any sound making or sound amplifying device in their possession  
19 or under their control.

20      2.     That, pursuant to LAMC Code section 11.00(l), each Defendant be assessed a  
21 civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each and every act that has  
22 occurred in violation of LAMC section 41.57.

23      3.     That Plaintiff be granted such other and further relief as the Court deems just and  
24 proper.

25           AS TO ALL CAUSES OF ACTION

26      1.     That Plaintiff recover the amount of the filing fees and the amount of the fee for  
27 the service of process or notices that would have been paid but for Government Code section  
28 6103.5, designating it as such. The fees may, at the Court's discretion, include the amount of

1 the fees for certifying and preparing transcripts.

2 2. That Plaintiff be granted such other and further relief as the Court deems just and  
3 proper.

4

5 DATED: December 12, 2017

Respectfully submitted,

6 MICHAEL N. FEUER, City Attorney

7 JONATHAN CRISTALL, Supervising Assistant City Attorney

8 By:

9 ADAM BIERMAN, Deputy City Attorney

10 Attorneys for Plaintiff, THE PEOPLE OF THE STATE  
11 OF CALIFORNIA



12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28